

# EXHIBIT 9

## Terry Grimes

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**From:** Brittany Haddox <brittany@Strelkalaw.com>  
**Sent:** Friday, March 15, 2019 7:28 PM  
**To:** Terry Grimes  
**Subject:** Fwd: Carmack v. Commonwealth

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**From:** Terry Grimes <tgrimes@terryngrimes.com>  
**Sent:** Friday, March 15, 2019 5:45 PM  
**To:** Hardy, Ryan S.; Brittany Haddox  
**Cc:** Kincer Jr, E. Lewis  
**Subject:** RE: Carmack v. Commonwealth

No Ryan – your statement that “we did not know the existence of many of the documents until shortly before Mr. Carmack’s deposition” is not sufficient. If you knew of them a week before, you should have produced them a week before. If you knew of them the day before, you should have produced them the day before. And you certainly knew of them the day before, for you made copies and brought them to the deposition. I am not going to argue about this. I have no doubt that the district court will not be happy w/ the AG’s actions and will act accordingly. I have ordered the transcript and will get back w/ you concerning possible remedies.

Best,

Terry N. Grimes  
Grimes and Haddox, P.C.  
[tgrimes@terryngrimes.com](mailto:tgrimes@terryngrimes.com)  
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**From:** Hardy, Ryan S. [mailto:[RHardy@oag.state.va.us](mailto:RHardy@oag.state.va.us)]

**Sent:** Friday, March 15, 2019 5:31 PM

**To:** Terry Grimes; Brittany Haddox

**Cc:** Kincer Jr, E. Lewis

**Subject:** RE: Carmack v. Commonwealth

Terry,

I will remind you that discovery requests are continuing in nature. We did not know the existence of many of the documents until shortly before Mr. Carmack's deposition and have now produced them before the close of discovery. We are, frankly, confused as to your assertion that you were prejudiced by not preparing your client for deposition. Mr. Carmack should have been prepared to discuss any matters related to the allegations in his lawsuit. We are not obligated to inform you of each and every credibility issue your client faces prior to his deposition.

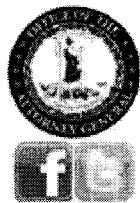
This is not the first time you have threatened sanctions against this Office or presented a skewed, hyperbolic version of the facts to gain unfair tactical advantage. Such bullying tactics are not favored in the Western District. To assist in any productive conversation to resolve this issue, please identify each RFP to which you believe each exhibit was responsive. Also identify any remedy that you believe is appropriate to correct the alleged prejudice. If you feel that a motion is still required after this conversation, we are fully prepared to respond.

Regards,

**Ryan S. Hardy**  
**Assistant Attorney General**  
**Office of the Attorney General**  
202 North 9th Street  
Richmond, Virginia 23219  
(804) 786-0969 Office

[RHardy@oag.state.va.us](mailto:RHardy@oag.state.va.us)

<http://www.ag.virginia.gov>



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**From:** Terry Grimes [mailto:[tgrimes@terryngrimes.com](mailto:tgrimes@terryngrimes.com)]

**Sent:** Friday, March 15, 2019 5:08 PM

**To:** Hardy, Ryan S.; Brittany Haddox

**Cc:** Kincer Jr, E. Lewis

**Subject:** RE: Carmack v. Commonwealth

Ryan/Ed – as you know, you offered as exhibits at Mr. Carmack’s deposition this week several documents that had not been produced in discovery. You offered documents without Bates stamps hoping that we would not realize that the documents had not been previously produced. This was not an accident. To the contrary, it was a tactical maneuver on the part of the AG’s office. These documents had been requested in discovery, and to make matters worse, Judge Sargent chastised you recently for engaging in similar tactics in a teleconference earlier this year and reminded you plainly that the documents at issue during that conversation should have been produced pursuant to Rule 26 with or without request. Today — 3 days after Mr. Carmack’s deposition — you appear to have produced the documents in question (I have not completed review of the documents produced today). In so doing, you deprived us of the opportunity to prepare the plaintiff for his deposition. This clearly was an intentional act. We intend therefore to file a motion for imposition of sanctions. As the AG’s office engaged in similar tactics in the DMV trilogy cases, and Back/Vaughn, this is a pattern and practice with your office. We would like to give you the opportunity to discuss voluntary resolution of this matter before the motion is filed. If you are interested, please let me know.

Finally, we designate the documents in question as “confidential” and ask that you confirm immediately that you will treat them as such pending resolution of this matter.

Terry N. Grimes  
Grimes and Haddox, P.C.  
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**From:** Hardy, Ryan S. [mailto:[RHardy@oag.state.va.us](mailto:RHardy@oag.state.va.us)]  
**Sent:** Friday, March 15, 2019 4:38 PM  
**To:** Brittany Haddox; Terry Grimes  
**Cc:** Kincer Jr, E. Lewis  
**Subject:** Carmack v. Commonwealth

Counsel,

Please see the link to access Defendants' supplemental production of documents. I will follow up with a final ROG/RFP response.

<https://oag.sharefile.com/d-s49d85a0edf44c1c8>

Regards,

**Ryan S. Hardy**  
**Assistant Attorney General**  
**Office of the Attorney General**  
202 North 9th Street

Richmond, Virginia 23219

(804) 786-0969 Office

[RHardy@oag.state.va.us](mailto:RHardy@oag.state.va.us)

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